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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,456	12/22/2006	Paul Joseph Bingham	18801-00789	2426
<div>7590 07/21/2010</div> <div>Robert H Earp III McDonald Hopkins Co 600 Superior Avenue East Suite 2100 Cleveland, OH 44114-2653</div> <div>EXAMINER LARSON, JUSTIN MATTHEW</div> <div>ART UNIT 3782 PAPER NUMBER</div> <div>MAIL DATE 07/21/2010 DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,456

Applicant(s)

BINGHAM, PAUL JOSEPH

Examiner

Justin M. Larson

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 14-16 and 18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10, 12, 14-16 and 18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 May 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-506)
4) ☐ Interview Summary (PTO-413)
5) ☐ Paper No(s)/Mail Date _____
6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 10/20/03. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-10, 12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmler (EP 694441 A1) in view of Gerber (US 5,002,216 A).

Examiner notes that the claims as currently presented positively claim only the subcombination support assembly where any mention of the roof bar is purely functional.

Regarding claim 1, Stemmler discloses a support assembly including: a base (3a) as claimed; a user manipulated part (12/14) including a threaded portion (in 14), a securing member (14) connected to said threaded portion; and a threaded shaft (of 12) to engage said threaded portion; a movable cover (17) as claimed; and a lock (18) as claimed; wherein said securing member is tensioned to inhibit relative movement between the vehicle and the assembly.

Stemmler fails to disclose the securing member including an eyelet opening for engaging a vehicle roof. The securing member of Stemmler is a solid body meant to be movably positioned within a groove (13) of the roof.

Gerber, however, teaches (Figure 14) that it was already known in the art for a securing member (430) to include an eyelet opening (432) for engaging pins (433) of the roof and a means (424) for preventing disengagement of the openings and pins.

One of ordinary skill in the art, after studying Stemmler and Gerber, would have realized, through their own available knowledge and reasoning, that a securing member could either be movably positioned within a groove of the roof or could include an eyelet opening for engaging pins of the roof and that such securing member-to-roof fastening means would be reasonably expected to work in place of one another for securing a roof bar to a vehicle roof. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the securing member (14) of Stemmler with eyelet openings and the roof of Stemmler with pins, as a mere substitution of known securing member-to-roof fastening means. The manipulated part (12) of this modified Stemmler design would effectively provide the means for preventing disengagement of the openings and pins by biasing the pins into the smaller parts of the openings. The eyelet opening and pin design would be less likely to inadvertently slide with respect to the length of the vehicle roof. A series of pins could also be provided on the roof in order to allow positional adjustment of the roof bar along the length of the vehicle roof.

Regarding claim 2, the cover is attached to the base (Figures).

Regarding claim 3, the cover is releasable for pivoting movement about an axis (can pivot about 17a as it is removed if a user so pivots) and along a predetermined path (arcuate path through which end of cover moves).

Regarding claim 4, the axis is generally horizontal (Figures).

Regarding claim 5, the path is located in a vertical plane (arcuate path mentioned above passes through a vertical plane).

Regarding claim 7, the lock includes a lock cylinder (Figures).

Regarding claim 8, the base has a cavity (3c is shown recessed) via which a user has access to the part (12).

Regarding claim 9, the movement of the shaft causes the engagement and disengagement of the eyelets and pins.

Regarding claim 10, the longitudinal axis of the shaft is generally vertical (Figures).

Regarding claim 12, the securing member is a strap assembly including a strap body (14) to the extent claimed.

Regarding claim 14, the lock cylinder is key operable (Figures).

Regarding claim 15, Stemmler discloses a mounting adapter (14).

Regarding claim 16, Stemmler discloses a securing member (8).

4. Claims 1-10, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. (DE 4315029 A1) in view of Stemmler, further in view of Gerber.

Examiner notes that the claims as currently presented positively claim only the subcombination support assembly where any mention of the roof bar is purely functional.

Regarding claim 1, Schmidt discloses a support assembly including: a base (2) as claimed; a user manipulated part (9) including a threaded shaft; a movable cover (4) as claimed; and a lock (6) as claimed.

Schmidt fails to disclose the manipulated part including a securing member connected to a threaded portion and having an eyelet opening for engaging the vehicle roof. The manipulated part of the Schmidt is simply a screw inserted into an aperture in the vehicle roof.

Stemmler, however, teaches that it was already known for a screw to engage a securing member (14) having a threaded portion, where the securing member engages the vehicle instead of the screw. Gerber teaches (Figure 14) that it was already known in the art for a securing member (430) to include an eyelet opening (432) for engaging pins (433) of the roof and a means (424) for preventing disengagement of the openings and pins.

One of ordinary skill in the art, after studying Schmidt and Stemmler, would have realized, through their own available knowledge and reasoning, that a mounting screw could either directly engage a vehicle roof or could be connected to a securing member that engages a vehicle roof. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have attached a securing member

to the user-manipulated part (9) of Schmidt for engagement with the vehicle roof as a mere substitution of known securement means.

One of ordinary skill in the art, after studying Stemmler and Gerber, would have realized that a securing member could either be movably positioned within a groove of the roof or could include an eyelet opening for engaging pins of the roof and that such securing member-to-roof fastening means would be reasonably expected to work in place of one another for securing a roof bar to a vehicle roof. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the securing member of the modified Schmidt assembly with eyelet openings and the roof of the modified Schmidt assembly with pins, as a mere substitution of known securing member-to-roof fastening means. The manipulated part (9) of this modified Schmidt design would effectively provide the means for preventing disengagement of the openings and pins by biasing the pins into the smaller parts of the openings.

Regarding claim 2, the cover is attached to the base (Figures).

Regarding claim 3, the cover is releasable for pivoting movement about an axis (through 3c) and along a predetermined path (arcuate patch through which end of cover moves).

Regarding claim 4, the axis is generally horizontal (Figures).

Regarding claim 5, the path is located in a vertical plane (arcuate path mentioned above passes through a vertical plane).

Regarding claim 6, the movement is provided by projections (4c) on said cover slidably engaged in tracks (3c) on said base.

Regarding claim 7, the lock includes a lock cylinder (Figures).

Regarding claim 8, the base has a cavity (between 2a) via which a user has access to the part (9).

Regarding claim 9, the movement of the shaft causes the engagement and disengagement of the eyelets and pins.

Regarding claim 10, the longitudinal axis of the shaft is generally vertical (Figures).

Regarding claim 14, the lock cylinder is key operable (Figures).

Regarding claim 18, Schmidt discloses a roof bar (1) having a mounting portion (1a) with a flange (Figures).

Response to Arguments

5. Applicant's arguments filed 4/26/10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is

not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571)272-8649. The examiner can normally be reached on Monday-Friday, 9a-5p (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin M Larson/
Examiner, Art Unit 3782
7/19/10